

REMARKS

Entry of the foregoing, reexamination and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

As correctly noted in the Office Action Summary, claims 2-5 and 9-38 were pending. By the present response, claim 10 has been amended and claim 9 has been amended. Thus, upon entry of the present response, claims 2-5 and 10-38 remain pending and await further consideration on the merits.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims.

OBJECTION TO SPECIFICATION

Based on the Examiner Interview, it is believed that these objections have been overcome by the Amendment filed on June 23, 2004. If this is not correct, Applicants request a detailed explanation of the remaining issues raising the objection, so that an appropriate response can be prepared.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

Claims 2-21, 29, 30 and 32-38 stand rejected under 35 U.S.C. §112, first paragraph on the grounds set forth in paragraph 3 of the Official Action. This rejection is respectfully traversed.

Based on the Examiner Interview, it is believed that these objections have been overcome by the Amendment filed on June 23, 2004. If this is not correct,

Applicants request a detailed explanation of the remaining issues raising the objection, so that an appropriate response can be prepared.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 2-5, 9-14, 16, 29, 30, 32-35 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,500,303 to Anderson (hereafter "*Anderson*") in view of WO 97/29150 to Rolle et al. (hereafter "*Rolle et al.*") on the grounds set forth in paragraph 5 of the Official Action. Although addressed by the amendments and comments submitted in the Amendment filed on June 23, 2004, this rejection remains in this application. This rejection is traversed and, for at least the reasons noted below, this rejection should be withdrawn.

The rejection based on the combinations of disclosures in *Anderson* and *Rolle et al.* is improper because the proposed combination has not established a *prima facie* case of obviousness as required. See MPEP §2142-2143.

A proper obviousness rejection requires three elements. First, there must be motivation or suggestion for the proposed modification or combination. Second, there must be a reasonable expectation of success for the proposed modification or combination. Third, the proposed modification or combination must teach of the claimed elements.

Here, the rejection is improper for at least the third reason. Namely, the proposed combination of *Anderson* in view of *Rolle et al.* does not disclose or suggest each of the elements of applicants' independent claim 10. As clarified above with respect to the objection to the specification and discussed in the personal interview, the proposed combination of *Anderson* in view of *Rolle et al.* does not

disclose applicants' claimed mixing ratio of rigid component:ductile component of about 1:1.5.

The Official Action correctly notes that *Anderson* fails to disclose several of the limitations of applicants' independent claim 10. See page 3 of the Official Action. The Official Action then refers to the disclosure in *Rolle et al.* for its alleged teachings of expanded foam material comprising first rigid component and second ductile component. The Official Action then refers to *Rolle et al.*'s disclosure of blending the polypropylene foaming material and concludes that one of ordinary skill in the art would have discovered the optimal or workable ranges to arrive at the rejection of applicants' claim.

Applicants respectfully assert that the blending identified as disclosed in *Rolle et al.* has been misinterpreted when the disclosure in *Rolle et al.* is considered as a whole and therefore, has been inappropriately applied against applicants' claim. Namely, the blending in *Rolle et al.* consists of a rigid component that is "as much as possible towards 50%" of the blend. See page 6, line 4. *Rolle et al.* further discloses that the blend contains 60-90% rigid component, preferably 60-80% of the rigid component. See page 6, lines 12-14. Thus, the disclosure in *Rolle et al.* is to a blend in which the rigid component is as much towards 50%, and preferably more than 50% of the blend.

In contrast to the assertion in the Official Action and the Advisory Action, the disclosure in *Rolle et al.* would not be understood by one of ordinary skill in the art to teach or suggest the claimed mixing ratio.

First, the *Rolle et al.* disclosure does not literally disclose the claimed mixing ratio of rigid component:ductile component of about 1:1.5.

Second, the *Rolle et al.* disclosure does not connote the claimed mixing ratio of rigid component:ductile component of about 1:1.5. The use of the language "as much as possible" clearly connotes that the "toward 50%" language is a goal that is not achieved. Further, the examples offered at page 6, lines 9-14 reinforce this interpretation. Here, *Rolle et al.* indicates that the preferred values are 60% to 90% and 60% to 80%. Thus, it is not the lower percentage that is moved toward 50%, but rather the higher, or more prevalent component, percentage that is moved from close to 100% toward 50%.

From the disclosure in *Rolle et al.*, **at all times the rigid component is more than 50%, e.g., no less than 60%**. Both the express and implied disclosure in *Rolle et al.* would not be understood by one of ordinary skill in the art to promote a mixing ratio of rigid component:ductile component of about 1:1.5 and would therefore teach away from applicants' claimed mixing ratio

Therefore, it is respectfully asserted that the combination of the disclosures in *Anderson* and *Rolle et al.* have not established the *prima facie* case of obviousness because the claimed mixing ratio of the present application is not disclosed, taught or suggested. Accordingly, the elements of a *prima facie* case of obviousness have not been met. Withdrawal of the rejection is respectfully requested.

The rejection of the dependent claims should also be withdrawn because these claims depend directly or indirectly from applicants' independent claim 10 and therefore suffer the same above-noted deficiency as the rejection of claim 10. Withdrawal of these rejections is respectfully requested.

Claims 15, 17, 18, 20, 21, 36 and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Anderson*) in view of *Rolle et al.* and in further view of

U.S. Patent No. 5,093,164 to Bauer et al. (hereafter "*Bauer et al.*") on the grounds set forth in paragraph 6 of the Official Action. Claim 19 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Anderson* in view of *Rolle et al* and in further view of *Bauer et al.* and in further view of U.S. Patent No. 5,527,622 to Kato et al. (hereafter "*Kato et al.*") on the grounds set forth in paragraph 7 of the Official Action.

The rejection of the these claims based on the other cited references should be withdrawn because these claims depend directly or indirectly from applicants' independent claim 10 and the disclosures in the other cited references do not contribute to overcome the above-noted deficiency in the combination of *Anderson* and *Rolle et al.* Withdrawal of these rejections is respectfully requested.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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